







Interesting Historical Facts

- ▶ Notary Of The Bedchamber: Middle ages
- ▶ They Didn't Trust Columbus: Account for all treasures
- ▶ Suffering Suffragettes: No women notaries until early 1900s
- ▶ Breakfast Of Champions: Pete Rose Oath
- ▶ Draw, Mister! TN no Duelists allowed!
- ▶ Notarygate Notary Backdated donations of papers by Nixon

What is a Notary Today?

- ▶ **Function:**
 - ▶ The eyes and ears in case of dispute in the future
 - ▶ provides written evidence of what occurred
- ▶ **Responsibilities**
 - ▶ Prove it is the right guy signing the document with free will
 - ▶ Administer Oaths
 - ▶ Attest to accuracy of copies

What is a Notary Today?

- ▶ **Qualification**
 - ▶ Proven integrity and Impartial
 - ▶ Meet all requirements of the office
- ▶ **Liability**
 - ▶ Damages to the public - Lawsuits
 - ▶ Criminal misconduct - Jail/Prison
 - ▶ Non compliance - Loss of commission

7 Notary Powers

- ▶ Taking Acknowledgments
 - ▶ The signer executes document in front of notary or Admits they signed of own free will
- ▶ Witnessing Signatures
 - ▶ Signer must sign in front of notary

Acknowledgment Certificate

- ▶ State of Montana County of _____
- ▶ On this _____ day of _____, 20____, before me, a Notary Public for the State of _____, Personally appeared _____, known to me to be the person named in the foregoing, _____ and **acknowledged** to me that _____ executed the same as _____ free act and deed, for the uses and purposes therein mentioned.
- ▶ IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in the certificate first above written.
- ▶ _____ Notary Signature
- ▶ Affix seal/stamp as close to signature as possible.
- ▶ [Montana notaries must complete the following if not part of stamp.]
 _____ Printed Name Notary Public for the state of _____
 Residing at _____ My Commission expires: _____ 20____

Signers in Representative Capacity

- ▶ When notarizing a document that is being signed by someone other than the person or entity designated as the signer,
- ▶ (1) the identity of the person who is actually signing the document,
 - ▶ *The person appearing in front of you*
- ▶ (2) the capacity of the person to sign on behalf of the person or entity,
 - ▶ *Example: Attorney in Fact, President, Member, Spouse, Parent, Trustee*
- ▶ (3) the authority to sign for that person or entity in this particular transaction.
 - ▶ *Ask for proof*
 - ▶ *Acknowledge they have the authority*

Signing in Representative Capacity

- ▶ State of Montana County of Yellowstone
- ▶ This record was signed before me on Nov. 5, 2015 by John Smith as Attorney-in-fact for Mary Smith.
- ▶
- ▶
- ▶ (Affix seal/stamp as close to signature as possible.)
- ▶ _____ Jane J Doe _____
- ▶ Notary Signature

Witnessing Certificate

- ▶ 1. This is a version of the basic form as described in 1-5-610(4), MCA:
- ▶ State of Montana County of _____ This record was signed before me on _____ by _____.
- ▶ Print name of signer(s)
- ▶
- ▶ _____ Notary Signature
- ▶ Affix seal/stamp as close to signature as possible.
- ▶ _____

Notary Powers

- ▶ Verification upon Oath or Affirmation, Jurat
 - ▶ Signers executes, swears or affirms truthfulness of document in front of notary
- ▶ Certifying Copies
 - ▶ Notary certifies the photocopy is accurate reproduction of the original

Jurat Certificate

- ▶ State of Montana County of _____
- ▶ This record was signed and sworn to before me on _____ by _____
- ▶ Print name of signer(s) _____
- ▶ Affix seal/stamp as close to signature as possible.
- ▶ _____

Copy Certification

- ▶ State of Montana County of "Yellowstone" _____
- ▶ I certify this to be a true and correct copy of the diploma from Montanan State University issued to John Smith made by me on Nov,5, 2015 .
- ▶ Affix seal/stamp as close to signature as possible.
- ▶ _____ Jane J Doe _____

When can I certify?

Do Not Certify Copy <ul style="list-style-type: none"> ▶ Birth, Marriage, Death Certificates ▶ Divorce Decrees ▶ Court Orders ▶ Adoption Records ▶ School Transcripts ▶ FBI Fingerprint Cards ▶ Motor Vehicle Titles ▶ Any Recorded Document 	Private Docs OK to Certify <ul style="list-style-type: none"> ▶ Driver's Licenses ▶ Student or Employee ID Cards ▶ Passports ▶ Diplomas Certificates or Awards ▶ Professional Licenses ▶ Personal Documents ▶ Bills or Invoices ▶ Photographs
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Additional Notary Powers

- ▶ Administering Oaths
 - ▶ Verbal promise of truthfulness, no mandated language
 - ▶ Can be part of jurat, Credible witness or act by itself
- ▶ Certifying transcripts of Depositions
- ▶ Making Protests of negotiable instruments
 - ▶ Only knowledgeable notaries should take this on

Fees

- ▶ Statutory maximum \$10
 - ▶ per notarized signature
 - ▶ copies certified
 - ▶ Oath/Affirmation administered
- ▶ Must publish fees for the public if charging

Fees

- ▶ Travel Fees
 - ▶ Maximum of Standard Mileage Rate
 - ▶ Client agrees in advance
 - ▶ Separate from the notarial fee

Jurisdiction

- ▶ May Notarize any document from anywhere around the world presented in person to the notary in the states of:
 - ▶ Montana
 - ▶ North Dakota
 - ▶ Wyoming

6 Steps to Flawless Notarization

- ▶ Personal Appearance
- ▶ Review Document
- ▶ Identification
- ▶ Screening of signer
- ▶ Journal
- ▶ Certificate

Personal Appearance

- ▶ Physical Appearance
 - ▶ Face to Face w Notary
 - ▶ Breathing the same air at same time

Review the Document

- ▶ Review not scrutinize
 - ▶ Name of document
 - ▶ Who is signer(s) to document
 - ▶ Representative capacity
 - ▶ Type of notarial act
 - ▶ All pages presented

Identify the Signer/Client

- ▶ 2 Ways
 - ▶ Personal Knowledge
 - ▶ Satisfactory Evidence
 - ▶ Documentary Proof
 - ▶ Credible Witness

Identify Signer/Client

- ▶ Personal Knowledge
 - ▶ Best form of Identification
 - ▶ Knowledge is over long period of time
 - ▶ You know them on sight by the same name as everyone else

Identify the Signer/Client

- ▶ Documentary Proof
 - ▶ ID cards
 - ▶ Signed and/or photo, government issued ID
 - ▶ Passport, Dr. License, State ID, (current/exp less than 3yrs)
 - ▶ Military or Student ID, other Gov issued ID

Identify the Signer/Client

- ▶ Credible Witness
 - ▶ Known to the signer
 - ▶ Personally known to notary or use of ID card previously described
 - ▶ Must be physically present at time of notarization
 - ▶ Must be impartial
- ▶ Place under oath: Do you swear under penalty of perjury that this is _____?
 - ▶ Create Journal entry for the oath and have witness sign Journal

Determine Competency and Willingness

- ▶ Screen Signer to determine:
 - ▶ Alert and Aware
 - ▶ Willing to sign
 - ▶ Use Standard of Reasonable Care: When in Doubt...Don't
- ▶ Check for Representative Capacity
 - ▶ Verbal Acknowledgment of status, may ask for proof
 - ▶ POAs check that signer is living

Journal

- ▶ Journal required for every notarial act
 - ▶ At the time you perform the notarization
 - ▶ Your Evidence that you fulfilled your obligations
 - ▶ Retain for 10 yrs after performance of last act in journal or may submit to repository of SoS
- ▶ Paper: Line or block style
 - ▶ Permanent, bound, designed to deter fraud
 - ▶ Electronic: chronological, sequential, non modifiable records, secure and tamper evident

Journal

- ▶ **Required Entries**
 - ▶ Date/Time
 - ▶ Type of Notarization
 - ▶ Description/Name of Document
 - ▶ Type of ID
 - ▶ Printed Name/Address
 - ▶ Signer/Affiant Signature
 - ▶ Fee
 - ▶ Other or Additional Information

Journals

- ▶ **Recommendations**
 - ▶ Should Not include private information: DOB,SSN,CC No, ID No.
 - ▶ Either Line Style or Block style acceptable
 - ▶ More is better to help recall details in Other/Additional Info
 - ▶ Thumbprints allowable and good idea to prove personal appearance

Journals

Multiple Signers:

- ▶ Short cuts acceptable for multiple signers
- ▶ When multiple documents: describe each
- ▶ Multiple Signatures *at same time only* may use diagonal line

Certificates

- ▶ Interpret what you will be certifying is within your power as a MT notary
- ▶ May be concise or wordy, verify all components required are included
 - ▶ 4 components
 - ▶ Venue
 - ▶ Statement of Particulars
 - ▶ Official Signature
 - ▶ Official Seal/Stamp of office

Certificates

- ▶ Guidelines
 - ▶ Modify pronouns by circling or striking when provided with multiple choices
 - ▶ If unable to determine type of certificate or how to fill out ask for assistance

Certificate

- ▶ Use preprinted certificate on Document if meets standard or:
 - ▶ Use attachment if no wording: Signer's job to determine which certificate
 - ▶ No room for seal
 - ▶ Asks for certification beyond your office
 - ▶ Certificate is split onto multiple pages

Seal of Office

- ▶ Traditional Ink or Electronic Seal
 - ▶ Approximately 1x2 ½" rectangular with plain narrow border
 - ▶ Black or blue ink

Seal of Office

- ▶ Components include:
 - ▶ Notary Printed Name
 - ▶ Title of Office (Notary Public for State of Montana)
 - ▶ Residing at (name of city/Montana)
 - ▶ Commission Exp date (month/Day/Four Digit Year)
 - ▶ Cannot fill in the year
 - ▶ No handwritten corrections allowed
 - ▶ Affixed logically associated with the certificate

E notarization vs Remote

- ▶ E-notarization same requirements as traditional, tools different
 - ▶ Physical Appearance required
 - ▶ Electronic Doc w certificate preprinted
 - ▶ Electronic Seal affixed

E vs Remote Notarization

- ▶ Remote
 - ▶ Signer not present
 - ▶ Must be MT Resident and
 - ▶ Real Property owned in MT,
 - ▶ Personal Property titled in MT, or
 - ▶ Documents under MT jurisdiction
 - ▶ ID via Personal knowledge or 1 credible witness who must appear
 - ▶ Acknowledgments and Jurats only

Special Request - DMV

- ▶ Rules to remember
 - ▶ Older certificates missing venue, must add
 - ▶ Multiple signers do not need to be notarized same time
 - ▶ No corrections - use Statement of fact which is appended to Title
 - ▶ Older forms seal can go in lien holder section just left of signature
 - ▶ New forms space for seal designated
 - ▶ Open Title: owners signs off without naming the new owner - OK
 - ▶ Out of State: Not all states require title to be notarized

Special Situations

- ▶ Foreign Documents
 - ▶ Signer speaks your language
 - ▶ Certificate in English only
- ▶ Blind
 - ▶ Confirm title and inserted info.
- ▶ Signature by Mark/3rd party
 - ▶ Mark, Stamp or Device
 - ▶ Direct 3rd party to sign on behalf

Special Request

- ▶ Apostille/ Authentications
 - ▶ Hauge Convention of 1961
 - ▶ Countries party to the agreement
 - ▶ Conclusively establishes the signature of notary is valid
 - ▶ Issued through MT Sec of State
 - ▶ Not all foreign documents require this process

Just say no!

- ▶ Signer Disqualified
 - ▶ NO ID
 - ▶ NO Physical Appearance
 - ▶ Not Alert and Aware/Competent
- ▶ Notary Disqualified
 - ▶ Conflict of Interest
 - ▶ Expired Commission
 - ▶ Self Notarization
 - ▶ Jurisdiction

Just Say No!

- ▶ Document Disqualified
 - ▶ Completeness
 - ▶ No Act and signer cannot choose
 - ▶ No signature required of signer for Acknowledgment or Jurat or Witnessing
 - ▶ Not a qualified Act such as Certificate of Life

Just say no!

- ▶ Other Disqualification
 - ▶ Suspect fraud/illegal
 - ▶ Outside of your business hours
 - ▶ Violates Business/Workplace
 - ▶ Non Payment

They are one of US!

- ▶ Famous Notaries
 - ▶ Singer, dancer, AKA Jenny from the block
 - ▶ Female astronaut
 - ▶ Actor, Devil wears Prada,
 - ▶ Consumer Advocate:
 - ▶ Writer Samuel Clemmons AKA

They are a notary too!

- ▶ JLO
- ▶ Christa McAuliffe
- ▶ Stanley Tucci
- ▶ David Horowitz
- ▶ Mark Twain

Summary

- ▶ You are ultimately responsible to identify the signer and check for willingness and comprehension
- ▶ Use your MT Handbook and NNA Hotline, before completing the act
- ▶ Avoid Prohibited Acts/Only certify what is allowed by law
- ▶ Protect yourself by documenting in the Journal

Contact Laura

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